

REMARKS

Status of the Claims

Upon entry of the amendment above, claims 1-27 will be pending, claims 1, 10, and 22 being independent.

Summary of the Office Action

On page 2 of the Office action, "[t]he specification is objected to under 35 U.S.C. §112, first paragraph, as failing to teach how to make and/or use the invention, i.e., failing to provide an enabling disclosure." In addition, also on page 2 of the Office action, "[t]he specification is objected to under 37 CFR 1.71 because it fails to provide an enabling disclosure teaching how to make the claimed invention, as to the following: the specification fails to provide an enabling disclosure teaching how to make the claimed clasp having wherein 'said blocking edge and/or said retracting edge is/are reinforced.'"

On page 3 of the Office action, claim 8 is rejected under 35 USC §112, first paragraph, "for the reasons set forth in the objection to the specification, pertaining to the claimed non-enabling subject matter wherein 'said blocking edge and/or said retracting edge is/are reinforced.'"

Claims 1-7 and 9 are allowed.

Response to the Office Action

A. Withdrawal of Objection Under 35 USC §112, First Paragraph, and 37 CFR §1.71, and Withdrawal of Rejection of Claim 8 Under 35 USC §112, First Paragraph

Applicants' respectfully request that the objection to the specification and the rejection of claim 8 be reconsidered and withdrawn.

The issue raised in the objection and rejection relates to how the edge(s) of the blocking member can be "reinforced," as recited in claim 8 and as described near the bottom of page 7 of the specification, in paragraph 0021.

Applicants submit that the objection and rejection should be withdrawn at least for the following reasons.

1. The Objection and Rejection are Not Properly Posited

Section 2164 of the Manual of Patent Examining Procedure (MPEP) explains, among other things, that the test for enablement is whether "undue experimentation" would be required by one skilled in the art to practice the invention. *See, e.g., In re Wands*, 858 F.2d 731, 8 USPQ2d 261 (Fed. Cir. 1988).

Applicants respectfully submit that a proper objection and rejection have not been advanced (*i.e.*, a *prima facie* case), inasmuch as the Office action has not established a reasonable basis to question the enablement provided by the claimed invention. Accordingly, withdrawal of the objection and rejection for at least this reason is requested.

A specification disclosure which contains a teaching of the manner and process of making and using the invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as in compliance with the enablement requirement of §112, first paragraph, unless there is a reason to doubt the objective truth of the statements contained therein which must be relied upon for enabling support. *See, In re Marzocchi*, 169 USPQ 367 (CCPA 1971). As stated by the court, at 370:

it is incumbent upon the Patent Office, whenever a rejection on this basis is made, to explain why it doubts the truth or accuracy of any statement in a supporting disclosure and to back up

assertions of its own with acceptable evidence or reasoning which is inconsistent with the contested statement. Otherwise, there would be no need for the applicant to go to the trouble and expense of supporting his presumptively accurate disclosure.

Likewise, as stated in *In re Angstadt and Griffin*, 190 USPQ 214, 219 (CCPA 1976):

the PTO has the burden of giving reasons, supported by the record as a whole, why the specification is not enabling. In *re Armbruster*, 512 F.2d 676, 185 USPQ 152 (CCPA 1975). Showing that the disclosure entails undue experimentation is part of the PTO's initial burden under *Armbruster*

Accord, Ex parte Sudilovsky, 21 USPQ2d 1702 (BPAI 1992).

2. The Subject Matter of Claim 8 Is Supported by an Enabling Disclosure

In addition to the foregoing, Applicants submit that the subject matter of claim 8 is adequately enabled for one skilled in the art to make and use same.

The final sentence of paragraph 0021 of the specification is the following:

"Depending on the type of the material of the blocking member, the retracting edge 34 (but also the blocking edge 30) can be provided to be reinforced to limit the problems of wear due to friction with the slider."

Claim 8 specifies that "said blocking edge and/or said retracting edge is/are reinforced."

The ordinary meaning of the word "reinforced," according to *Random House Webster's Unabridged Dictionary*, Second Edition, Copyright 2001, Random House, Inc., New York, New York, page 1625, is "1. to strengthen with some added piece, support, or material: *to reinforce a wall.*"

Particularly in the context presented in the instant claim and disclosure, Applicants respectfully submit that one skilled in the art would be able to make and use the invention of claim 8 by virtue of the ordinary meaning that would be imparted to the word "reinforced," particularly if (as mentioned in paragraph 0021 of the specification) one wanted to limit the wear that friction on the blocking member and, particularly, on the blocking edge of the blocking member. Specifically, one skilled in the art would be instructed to have strengthened the blocking member by adding "some added piece, support, or material."

B. New Claims

Applicants have added new claims 10-27, of which claims 10, 17, and 22 are independent.

Independent claim 10 is similar to allowed claim 1, although claim 10 does not recite the "retracting edge" of claim 1. On the other hand, claim 10 includes a structural recitation of the blocking member having the form of a plate that, in the blocking position, extends in a plane substantially parallel to a plane of the first and second strips of material, the plate having a blocking edge extending substantially perpendicular to the path of the slider. This claim, particularly with regard to the description of the blocking member, is not believed to be taught or suggested by the documents of record.

New claims 11 and 12 recite the blocking member in even greater detail, claim 11 referencing the inclined edge of the blocking member for causing the retraction of the blocking member as the slider moves and engages the blocking member in the closing direction, and claim 12 specifying that the blocking member returns to the blocking position after the slider moves beyond the blocking member in the closing direction.

Claim 13 describes the blocking member as being directly or indirectly connected to one of the first and second strips of material along the lateral edge, substantially parallel to the path of the slider.

Claim 14 further describes that the blocking member is assembled to a flexible panel with one of the first and second strips by means of stitching.

Claim 15 further describes the blocking member as being made from semi-flexible material, and claim 16 describes the blocking member as being made of plastic.

New independent claim 17, compared to allowed claim 1, does not include the limitation that the blocking member is "directly or indirectly affixed ...", nor certain words from the "automatic return" limitation at the end of claim 1, but it does include limitations relating to the position and function of the blocking member in relation to the slider which are not believed to be taught or suggested by the documents of record.

Claim 18 calls for the retracting device of claim 17 to comprise a ramp inclined with respect to the path of the slider in the closing direction, whereby the slider is engagable with the inclined ramp to move the blocking member toward a retracted position.

Claim 19 describes the blocking member of claim 18 as returning to the blocking position after the slider moves beyond the blocking member in the closing direction.

New claim 20 depends from claim 17 and further describes the blocking member as having the form of a plate, whereby, in the blocking position, the plate extends in a plane substantially parallel to a plane of the first and second strips of material, the plate having a blocking edge extending substantially perpendicular to the path of the slider, and that the plate has an edge that is inclined with respect to the path of the slider.

Claim 21 depends from claim 17 and specifies that the blocking member is made from semi-flexible material.

New independent claim 22 is directed to "a slide fastener assembly" that includes first and second lengthwise extending fastening devices; a slider mounted to slide in a lengthwise path along the first and second fastening devices in a closing direction to engage the first and second fastening devices and in an opening direction to disengage the first and second fastening devices, the slider thereby being mounted to slide between closed and open positions of the slide fastener; a blocking member mounted to extend across the first and second fastening devices in the closed position of the slide fastener to present a blocking portion of the blocking member for engagement with a portion of the slider. Further, claim 22 specifies that in the closed position of the slide fastener (as shown in the exemplary embodiment of Fig. 2), the slider extends lengthwise in the closing direction past the blocking portion of the blocking member to interfere with movement of the slider in the opening direction. This configuration is not believed to be taught or suggested by the documents of record.

Claim 23 depends from claim 22 and adds the first and second pieces of material to which the first and second fastening devices are connected, with the first and second pieces of material comprising distinct panels of a garment or a single panel of a garment, as specified in paragraph 0012 of the specification.

Claim 24 depends from claim 22 and is directed to the aspect of the invention whereby the blocking member is affixed to only one of the first and second pieces of material and extends across said first and second fastening devices toward the other of the first and second pieces of material.

Claim 25 is directed to claim 24 and further specifies that the blocking member is made of a flexible material to enable lifting of the blocking member to allow the slider to pass beneath the blocking member.

Finally, claim 26 recites details relating to the slide fastener of the invention taking the form of a zipper, and claim 27 further specifically adds the feature of a pull tab.

SUMMARY AND CONCLUSION

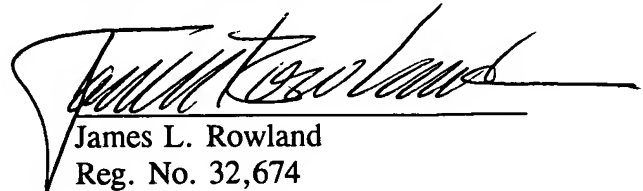
The grounds of objection and rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

A check is enclosed for payment of a claim fee. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and complete to Deposit Account No. 19-0089.

Further, although no extension of time is believed to be necessary at this time, if it were to be found that an extension of time were necessary to render this reply timely and/or complete, Applicants request an extension of time under 37 CFR §1.136(a) in the necessary increment(s) of month(s) to render this reply timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR §1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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